FILE COPY

OCT 2 193

# Supreme Court of the United States

OCTOBER TERM, 1931

No. 287

---

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, et al.,

*Appellants,*

*against*

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION, et al.,

*Appellees.*

---

TERMINAL GRAIN COMPANY, et al.,

*Appellants,*

*against*

UNITED STATES OF AMERICA,

*Appellee.*

---

## MOTION TO ADVANCE

---

# Supreme Court of the United States

OCTOBER TERM, 1931

No. 287

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, *et al.*,
*Appellants,*

*against*

UNITED STATES OF AMERICA *and* INTERSTATE COMMERCE COMMISSION, *et al.*,
*Appellees.*

TERMINAL GRAIN COMPANY, *et al.*,
*Appellants,*

*against*

UNITED STATES OF AMERICA,
*Appellee.*

## MOTION TO ADVANCE

Now come the appellants and the appellees in the above entitled cause and move that said cause be advanced for early hearing, and in support of their motion make the following brief statement of the matters involved and the reasons relied upon for such advancement:

Appellants, The Atchison, Topeka and Santa Fe Railway Company, *et al.*, common carriers engaged in interstate commerce in the Western District (as defined by the appellee, Interstate Commerce Commission, and com-

prising, roughly speaking, the western half of the continental United States) brought suit in the United States District Court for the Northern District of Illinois, Eastern Division, to set aside and enjoin the enforcement of an order of the Interstate Commerce Commission entered on July 1, 1930, as modified by supplemental order entered on April 10, 1931, prescribing rates on grain and grain products in said Western District, made in a proceeding before the Commission entitled "No. 17,000, Rate Structure Investigation, Part VII, Grain and Grain Products within the Western District, and for Export."

The petition alleged that the effect of the said order was materially to reduce the general level of the rates on grain and grain products in said district and to reduce by not less than $20,000,000 annually the revenues of the petitioners; and that the order of the Commission was void because in excess of the powers conferred upon the Commission by the Interstate Commerce Act and based upon a misinterpretation thereof, and for other reasons set forth in the petition.

This is an appeal from orders of the District Court denying an interlocutory injunction after a hearing as provided in U. S. Code, Title 28, Section 47, and is therefore entitled to preference under U. S. Code, Title 28, Section 47a, which provides:

> "Appeals to the Supreme Court under this section and section 47 of this title shall have priority in hearing and determination over all other causes except criminal causes in that court."

WHEREFORE, appellants and appellees pray that this cause be advanced upon the calendar and assigned for hearing at an early date.

Respectfully submitted,

FREDERICK H. WOOD,
WALTER MCFARLAND,
ELMER A. SMITH,
P. F. GAULT,
DOUGLAS F. SMITH,
H. H. LARIMORE,
J. N. DAVIS,
A. B. MASON,
R. J. HAGMAN,
M. L. COUNTRYMAN, JR.,
R. S. OUTLAW,
LESLIE CRAVEN,
WM. D. WHITNEY,
A. B. ENOCH,
D. P. CONNELL,
*Solicitors for Appellants,*
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, *et al.*,
15 Broad Street,
New York, N. Y.

DICK DIXON,
FRANK A. LEFFINGWELL,
*Solicitors for Appellants,*
TERMINAL GRAIN COMPANY, *et al.*,
Room 1901, Santa Fe Building,
Dallas, Texas.

October 5, 1931.

THOMAS D. THACHER,
*Solicitor-General.*
JOHN LORD O'BRIAN,
*The Assistant to the Attorney-General.*
ELMER B. COLLINS,
*Special Assistant to the Attorney-General.*
DANIEL W. KNOWLTON,
E. M. REIDY,
H. L. UNDERWOOD,
*For the* INTERSTATE COMMERCE COMMISSION.

D. D. MCDONALD,
FRANCIS SILVER,
JAMES MORRIS,
PAUL A. WALKER,
HERMAN L. BODE,
JOHN E. BENTON,
*Solicitors for Appellees,*
CORPORATION COMMISSION OF ARIZONA, *et al.*

E. H. HATCHER,
CHARLES W. STEIGER,
*Solicitors for Appellee,*
THE PUBLIC SERVICE COMMISSION FOR THE STATE OF KANSAS.

RALPH MERRIAM,
*Solicitor for Appellee,*
BOARD OF TRADE OF KANSAS CITY, MO.

C. A. SORENSEN,
*Attorney General,*
HUGH LA MASTER,
*Assistant Attorney General,*
*Solicitors for Appellee,*
NEBRASKA STATE RAILWAY COMMISSION.

HARRISON A. BRONSON,
*Solicitor for Appellee,*
STATE OF NORTH DAKOTA, doing Business as the NORTH DAKOTA MILL & ELEVATOR ASSOC., and the NORTH DAKOTA TERMINAL EXCHANGE.